

for valuable consideration. After a year and a day¹³ a *feri facias* issued against the land, which was quashed because no *scire facias* on the judgment had gone against the vendee as terre-tenant. But this case was overruled in *McElderry v. Smith*, 2 H. & J. 72.¹⁴ There A. recovered judgment against B. on the 24th May 1785. A. made his executors and died on the 1st Jan. 1786. On the 5th April 1786, a *scire facias* on the judgment was issued by the executors, on which there was a *fiat* in Oct. 1787. Pending this *scire facias*, on the 9th May 1787, B. mortgaged his lands to C., but the latter was not let into possession. On the 17th July 1788, a *feri facias* was issued, and it was held that A.'s executors might levy it on the lands aliened without a *scire facias* against the mortgagee, whom the lower Court considered a terre-tenant; but here *pendente lite* the title was acquired. The point was passed in *Hanson v. Barnes* v. lessee *supra*. But in *Murphy v. Cord*, 12 G. & J. 182, as explained in *Doub v. Barnes*, 4 Gill, 1, it was held that the lien of a judgment was not lost with the right to issue execution, which indeed seems to have been determined in *Ridgely v. Gartrell*, 3 H. & McH. 449, and that where a debtor aliens lands subject to the lien of a judgment before the right to immediate execution was suspended, i. e., within three years from the date of the judgment, a *scire facias* is unnecessary to affect terre-tenants, though if a *scire facias* becomes necessary by death or lapse of time, it must go against all the terre-tenants whose lands are to be affected by the judgment. And so in *Warfield v. Brewer* *supra*, it was repeated, that if a *feri facias* issue within three years it may be levied on land aliened after judgment without a *scire facias*, but if the judgment requires to be revived the terre-tenant must be made a party, and he is not bound by a *scire facias* issued after the alienation to which he is

otherwise those named may plead in abatement. *Thomas v. Farmers Bank*, 46 Md. 43. Cf. *Horsey v. Chew*, 65 Md. 555.

Sheriff's return—Description of land.—As respects *terre-tenants* the proceeding is strictly *in rem*. No personal judgment is obtained but simply a judgment subjecting the land in the hands of the *terre-tenant* which belonged to the judgment debtor at the date of the judgment to its payment. From the very object of the proceeding, as against *terre-tenants*, it is necessary that there should be a specific description of the lands that it may be known what lands are liable to the execution ordered to go out. *Bish v. Williar*, 59 Md. 382; *Thomas v. Farmers Bank*, 46 Md. 43; *Farmers Bank v. Thomas*, 37 Md. 246.

As to whether *scire facias* will lie to revive a judgment of *fiat* against a *terre-tenant* of a judgment debtor, *quære*? *Bish v. Williar*, *supra*.

¹³ This is an error. The *fi. fa.* issued within a year and a day from the expiration of the stay.

¹⁴ It is said in *Wright v. Ryland*, 92 Md. 645, that *Arnott v. Nicholls* has not been overruled by later cases. Yet it is twice stated in the majority opinion in this case (pp. 654, 657) that plaintiff may issue execution on his judgment at any time during the twelve years for which it is a lien and levy upon the lands of the *terre-tenant* without previous notice to him! This, of course, is now clear law but it is in flat contradiction of *Arnott v. Nicholls*.